



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 32, 51 and 69

[DA 12-1552]

Nonsubstantive, Editorial or Conforming Amendments of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document makes a number of nonsubstantive, editorial or conforming revisions to the Commission's rules. These revisions are made to delete certain rule provisions that are without current legal effect or are otherwise obsolete. They are also made to clarify, simplify, and harmonize Commission rules, making the rules more readily accessible to the public and avoiding potential confusion for interested parties and Commission staff alike. In addition to deleting balance sheet account instructions that are now obsolete, as well as references to rules that have previously been deleted, this document deletes and amends rules that refer to unbundled network elements that are no longer subject to unbundling as a result of decisions in the Triennial Review proceedings or expired transition periods.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kirk Burgee, Wireline Competition Bureau, Front Office, (202) 418-1500, or send an email to kirk.burgEE@fcc.gov.

SUPPLEMENTARY INFORMATION: In this Order, we make a number of nonsubstantive, editorial or conforming revisions to parts 32, 51 and 69 of the Commission's rules. We make these revisions to delete certain rule provisions that are without current legal effect or are otherwise obsolete. These nonsubstantive revisions are part of the Commission's ongoing examination and improvement of FCC processes and procedures. The revisions clarify, simplify, and harmonize our rules, making the rules more readily accessible to the public and avoiding

potential confusion for interested parties and Commission staff alike. The revisions and the specific reasons we are adopting each one are set forth below.

I. PART 32, SUBPART C, INSTRUCTIONS FOR BALANCE SHEET ACCOUNTS

1. This Order amends part 32, subpart C, Instructions for Balance Sheet Accounts, to delete § 32.2321, which is obsolete. Section 32.2321 creates an account in the Uniform System of Accounts for incumbent local exchange carriers' (incumbent LECs') embedded customer premises wiring that was capitalized prior to October 1, 1984. By Commission order, the full amortization of all inside wiring was to be completed by September 30, 1994 and therefore the rule has no further applicability.

II. PART 51, SUBPART D, ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS

2. This Order amends rules in part 51, subpart D, Additional Obligations of Incumbent Local Exchange Carriers, which, among other things, establishes a list of unbundled network elements (UNEs) that are subject to the unbundling rules adopted in the Commission's Triennial Review proceedings, and the terms for unbundling these network elements. See Triennial Review Order, FCC 03-227, published at 68 FR 52276, 52295-305; Unbundled Access to Network Elements; Review of the Section 251 Triennial Review Remand Order, FCC 04-290, published at 70 FR 8940, 8953-55, February 24, 2005. Specifically, this Order makes the following deletions or amendments to part 51 rules that refer to UNEs that are no longer subject to unbundling as a result of decisions in the Triennial Review proceedings or expired transition periods:

- This Order deletes §51.319(a)(1)(i), which references "line sharing" as a UNE that is subject to unbundling, to conform to judicial decision. See United States

Telecom Ass’n v. FCC, 290 F.3d 415, 428-29 (2002) (vacating the Commission’s decision to provide CLECs with unbundled access to the high frequency portion of copper loops to provide broadband DSL services, primarily because the Commission had failed to consider the relevance of intermodal competition in the broadband market). The definition of “high-frequency portion of the loop” in §51.319(a)(1)(i) has continuing relevance for the Commission’s unbundling requirements, specifically with regard to line splitting under §51.319(a)(1)(ii). Accordingly, in deleting §51.319(a)(1)(i), this order moves the definition of “high-frequency portion of the loop” to the end of § 51.319(a)(1)(ii) and redesignates §51.319(a)(1)(ii) through 51.319(a)(1)(v) as § 51.319(a)(1)(i) through 51.319(a)(1)(iv). This Order also deletes the reference to unbundled “local circuit switching” in § 51.319(a)(1)(ii) (redesignated as §51.319(a)(1)(i)), to implement the Triennial Review Remand Order, FCC 04-290, published at 70 FR 8940, February 24, 2005.

- This Order deletes references to “the high-frequency portion of the copper loop” in §51.319(a)(1)(iii) (redesignated as §51.319(a)(1)(ii)), to conform to judicial decision. See United States Telecom Ass’n v. FCC, 290 F.3d 415, 428-29 (2002).
- This Order deletes § 51.319(a)(1)(iii)(D) & (E) to conform to judicial decision. See United States Telecom Ass’n v. FCC, 290 F.3d 415, 428-29 (2002).
- This Order amends §51.319(a)(1)(v) (redesignated as 51.319(a)(1)(iv)) to delete the reference to “line sharing,” to conform to judicial decision. See United States Telecom Ass’n v. FCC, 290 F.3d 415, 428-29 (2002).
- This Order deletes a reference in §51.319(a)(7)(ii) to network modifications that

would enable a requesting telecommunications carrier to obtain access to a dark fiber loop. This deletion reflects the fact that the Commission previously eliminated the requirement to make dark fiber loops available as unbundled network elements.

- This Order deletes §51.319(d) to conform to judicial decision, redesignates §51.319(e) through (g) as §51.319(d) through (f)), and amends all internal cross-references to reflect these redesignations.
- This Order deletes §51.319(a)(4)(iii), 51.319(a)(5)(iii), 51.319(a)(6)(ii), 51.319(e)(2)(ii)(C), 51.319(e)(2)(iii)(C), and 51.319(e)(2)(iv)(B), all of which establish transition periods that have expired. In addition, this Order revises § 51.319(a)(6)(i) to designate that section as § 51.319(a)(6), and restructures 51.319(e)(2)(iv), redesignated as 51.319(d)(2)(iv), to eliminate §51.319(e)(2)(iv)(A) as a separate section and to consolidate its text into redesignated § 51.319(d)(2)(iv).

III. PART 69, ACCESS CHARGES

3. This Order amends Part 69, Access Charges, to delete references to §54.303, Long Term Support, which the Commission deleted in the USF/ICC Transformation Order, FCC 11-161, published at 77 FR 26987, May 8, 2012.

4. Specifically, this Order amends §69.415(c) to remove references to §54.303 and “long term support,” deletes § 69.2(y) and § 69.502(c), which reference §54.303, and redesignates §69.502(d) and (e) as §69.502(c) and (d), respectively.

5. The rule amendments adopted in this Order and set forth in the attached Appendix are nonsubstantive, editorial revisions of the rules pursuant to 47 CFR 0.231(b). These

revisions delete rule provisions that are without current legal effect or are otherwise obsolete, and delete references to obsolete rules and statutes. Accordingly, we find good cause to conclude that notice and comment procedures are unnecessary and would not serve any useful purpose. For the same reason, we also find good cause to make these nonsubstantive, editorial revisions of the rules effective upon publication in the Federal Register.

IV. PROCEDURAL MATTERS

A. Regulatory Flexibility Act

6. Because we adopt this Order without notice and comment, the Regulatory Flexibility Act does not apply.

B. Paperwork Reduction Act

7. The rules contained herein have been analyzed with respect to the Paperwork Reduction Act of 1995 and found to contain no new or modified form, information collection, and/or recordkeeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public. See Pub. L. 104 through 113, 44 U.S.C. 3501, et. seq. In addition, therefore, this Order does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002. See Pub. L. 107 through 198, 44 U.S.C. 3506(c)(4).

C. Congressional Review Act

8. The Commission will send a copy of this Order in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act. See 5 U.S.C. 801(a)(1)(A).

V. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, effective upon publication in the Federal Register, Parts 32, 51, and 69 of the Commission's rules ARE AMENDED, as set forth in the attached Final Rules caption, pursuant to the authority contained in Sections 4(i), 5(c), and 303(r) of the Communications Act, 47 U.S.C. 154(i), 155(c), and 303(r), and Section 0.231(b) of the Commission's regulations, 47 CFR 0.231(b).

10. IT IS FURTHER ORDERED that the Secretary shall cause a copy of this Order to be published in the Federal Register.

List of Subjects

47 CFR Part 32

Communications common carriers, Reporting and recordkeeping requirements,
Telephone, Uniform System of Accounts.

47 CFR Part 51

Communications common carriers, Telecommunications.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements,
Telephone.

FEDERAL COMMUNICATIONS COMMISSION

Julie Veach,
Chief, Wireline Competition Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 32, 51, and 69 as follows:

PART 32 – UNIFORM SYSTEM OF ACCOUNTS FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 32 continues to read as follows:

Authority: 47 U.S.C. 154(i), 154(j) and 220 as amended.

§ 32.2321 [Removed]

2. Remove § 32.2321.

PART 51 – INTERCONNECTION

3. The authority citation for part 51 continues to read as follows:

Authority: Sections 1–5, 7, 201–05, 207–09, 218, 225–27, 251–54, 256, 271, 303(r), 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 225–27, 251–54, 256, 271, 303(r), 332, 47 U.S.C. 157 note.

4. Amend § 51.319 by revising paragraph (a), by removing paragraph (d) and redesignating paragraphs (e) through (g) as paragraphs (d) through (f) and revising newly redesignated paragraph (d) to read as follows:

§ 51.319 Specific unbundling requirements.

(a) Local loops. An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to the local loop on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part and as set forth in paragraphs (a)(1) through (8) of this section. The local loop network element is defined as a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and the loop demarcation point at an end-user customer premises. This element includes all features, functions, and capabilities of such transmission facility, including the network interface device. It also includes all electronics, optronics, and intermediate devices (including repeaters and load coils) used to establish the

transmission path to the end-user customer premises as well as any inside wire owned or controlled by the incumbent LEC that is part of that transmission path.

(1) Copper loops. An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to the copper loop on an unbundled basis. A copper loop is a stand-alone local loop comprised entirely of copper wire or cable. Copper loops include two-wire and four-wire analog voice-grade copper loops, digital copper loops (e.g., DS0s and integrated services digital network lines), as well as two-wire and four-wire copper loops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the copper loops are in service or held as spares. The copper loop includes attached electronics using time division multiplexing technology, but does not include packet switching capabilities as defined in paragraph (a)(2)(i) of this section. The availability of DS1 and DS3 copper loops is subject to the requirements of paragraphs (a)(4) and (5) of this section.

(i) Line splitting. An incumbent LEC shall provide a requesting telecommunications carrier that obtains an unbundled copper loop from the incumbent LEC with the ability to engage in line splitting arrangements with another competitive LEC using a splitter collocated at the central office where the loop terminates into a distribution frame or its equivalent. Line splitting is the process in which one competitive LEC provides narrowband voice service over the low frequency portion of a copper loop and a second competitive LEC provides digital subscriber line service over the high frequency portion of that same loop. The high frequency portion of the loop consists of the frequency range on the copper loop above the range that carries analog circuit-switched voice transmissions. This portion of the loop includes the features, functions, and capabilities of the loop that are used to establish a complete transmission path on the high frequency range between the incumbent LEC's distribution frame (or its equivalent) in its central office and the demarcation point at the end-user customer premises, and includes the high frequency portion of any inside wire owned or controlled by the incumbent LEC.

(A) An incumbent LEC's obligation, under paragraph (a)(1)(i) of this section, to provide a requesting telecommunications carrier with the ability to engage in line splitting applies regardless of whether the carrier providing voice service provides its own switching or obtains local circuit switching from the incumbent LEC.

(B) An incumbent LEC must make all necessary network modifications, including providing nondiscriminatory access to operations support systems necessary for pre-ordering, ordering, provisioning, maintenance and repair, and billing for loops used in line splitting arrangements.

(ii) Line conditioning. The incumbent LEC shall condition a copper loop at the request of the carrier seeking access to a copper loop under paragraph (a)(1) of this section or a copper subloop under paragraph (b) of this section to ensure that the copper loop or copper subloop is suitable for providing digital subscriber line services, whether or not the incumbent LEC offers advanced services to the end-user customer on that copper loop or copper subloop. If the incumbent LEC seeks compensation from the requesting telecommunications carrier for line conditioning, the requesting telecommunications carrier has the option of refusing, in whole or in part, to have the line conditioned; and a requesting telecommunications carrier's refusal of some or all aspects of line conditioning will not diminish any right it may have, under paragraphs (a) and (b) of this section, to access the copper loop or the copper subloop.

(A) Line conditioning is defined as the removal from a copper loop or copper subloop of any device that could diminish the capability of the loop or subloop to deliver high-speed switched wireline telecommunications capability, including digital subscriber line service. Such devices include, but are not limited to, bridge taps, load coils, low pass filters, and range extenders.

(B) Incumbent LECs shall recover the costs of line conditioning from the requesting telecommunications carrier in accordance with the Commission's forward-looking pricing principles promulgated pursuant to section 252(d)(1) of the Act and in compliance with rules governing nonrecurring costs in §51.507(e).

(C) Insofar as it is technically feasible, the incumbent LEC shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only.

(iii) Maintenance, repair, and testing. (A) An incumbent LEC shall provide, on a nondiscriminatory basis, physical loop test access points to a requesting telecommunications carrier at the splitter, through a cross-connection to the requesting telecommunications carrier's collocation space, or through a standardized interface, such as an intermediate distribution frame or a test access server, for the purpose of testing, maintaining, and repairing copper loops and copper subloops.

(B) An incumbent LEC seeking to utilize an alternative physical access methodology may request approval to do so from the state commission, but must show that the proposed alternative method is reasonable and nondiscriminatory, and will not disadvantage a requesting telecommunications carrier's ability to perform loop or service testing, maintenance, or repair.

(iv) Control of the loop and splitter functionality. In situations where a requesting telecommunications carrier is obtaining access to the high frequency portion of a copper loop through a line splitting arrangement, the incumbent LEC may maintain control over the loop and splitter equipment and functions, and shall provide to the requesting telecommunications carrier loop and splitter functionality that is compatible with any transmission technology that the requesting telecommunications carrier seeks to deploy using the high frequency portion of the loop, as defined in paragraph (a)(1)(i) of this section, provided that such transmission technology is presumed to be deployable pursuant to §51.230.

(2) Hybrid loops. A hybrid loop is a local loop composed of both fiber optic cable, usually in the feeder plant, and copper wire or cable, usually in the distribution plant.

(i) Packet switching facilities, features, functions, and capabilities. An incumbent LEC is not required to provide unbundled access to the packet switched features, functions and capabilities of its hybrid loops. Packet switching capability is the routing or forwarding of packets, frames,

cells, or other data units based on address or other routing information contained in the packets, frames, cells or other data units, and the functions that are performed by the digital subscriber line access multiplexers, including but not limited to the ability to terminate an end-user customer's copper loop (which includes both a low-band voice channel and a high-band data channel, or solely a data channel); the ability to forward the voice channels, if present, to a circuit switch or multiple circuit switches; the ability to extract data units from the data channels on the loops; and the ability to combine data units from multiple loops onto one or more trunks connecting to a packet switch or packet switches.

(ii) Broadband services. When a requesting telecommunications carrier seeks access to a hybrid loop for the provision of broadband services, an incumbent LEC shall provide the requesting telecommunications carrier with nondiscriminatory access to the time division multiplexing features, functions, and capabilities of that hybrid loop, including DS1 or DS3 capacity (where impairment has been found to exist), on an unbundled basis to establish a complete transmission path between the incumbent LEC's central office and an end user's customer premises. This access shall include access to all features, functions, and capabilities of the hybrid loop that are not used to transmit packetized information.

(iii) Narrowband services. When a requesting telecommunications carrier seeks access to a hybrid loop for the provision of narrowband services, the incumbent LEC may either:

(A) Provide nondiscriminatory access, on an unbundled basis, to an entire hybrid loop capable of voice-grade service (i.e. , equivalent to DS0 capacity), using time division multiplexing technology; or

(B) Provide nondiscriminatory access to a spare home-run copper loop serving that customer on an unbundled basis.

(3) Fiber loops. (i) Definitions. (A) Fiber-to-the-home loops. A fiber-to-the-home loop is a local loop consisting entirely of fiber optic cable, whether dark or lit, serving an end user's customer premises or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber

optic cable, whether dark or lit, that extends to the multiunit premises' minimum point of entry (MPOE).

(B) Fiber-to-the-curb loops. A fiber-to-the-curb loop is a local loop consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer's premises or, in the case of predominantly residential MDUs, not more than 500 feet from the MDU's MPOE. The fiber optic cable in a fiber-to-the-curb loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer's premises.

(ii) New builds. An incumbent LEC is not required to provide nondiscriminatory access to a fiber-to-the-home loop or a fiber-to-the-curb loop on an unbundled basis when the incumbent LEC deploys such a loop to an end user's customer premises that previously has not been served by any loop facility.

(iii) Overbuilds. An incumbent LEC is not required to provide nondiscriminatory access to a fiber-to-the-home loop or a fiber-to-the-curb loop on an unbundled basis when the incumbent LEC has deployed such a loop parallel to, or in replacement of, an existing copper loop facility, except that:

(A) The incumbent LEC must maintain the existing copper loop connected to the particular customer premises after deploying the fiber-to-the-home loop or the fiber-to-the-curb loop and provide nondiscriminatory access to that copper loop on an unbundled basis unless the incumbent LEC retires the copper loops pursuant to paragraph (a)(3)(iv) of this section.

(B) An incumbent LEC that maintains the existing copper loops pursuant to paragraph (a)(3)(iii)(A) of this section need not incur any expenses to ensure that the existing copper loop remains capable of transmitting signals prior to receiving a request for access pursuant to that paragraph, in which case the incumbent LEC shall restore the copper loop to serviceable condition upon request.

(C) An incumbent LEC that retires the copper loop pursuant to paragraph (a)(3)(iv) of this section shall provide nondiscriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the fiber-to-the-home loop or fiber-to-the-curb loop on an unbundled basis.

(iv) Retirement of copper loops or copper subloops. Prior to retiring any copper loop or copper subloop that has been replaced with a fiber-to-the-home loop or a fiber-to-the-curb loop, an incumbent LEC must comply with:

(A) The network disclosure requirements set forth in section 251(c)(5) of the Act and in §51.325 through §51.335; and

(B) Any applicable state requirements.

(4) DS1 loops. (i) Subject to the cap described in paragraph (a)(4)(ii) of this section, an incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to a DS1 loop on an unbundled basis to any building not served by a wire center with at least 60,000 business lines and at least four fiber-based collocators. Once a wire center exceeds both of these thresholds, no future DS1 loop unbundling will be required in that wire center. A DS1 loop is a digital local loop having a total digital signal speed of 1.544 megabytes per second. DS1 loops include, but are not limited to, two-wire and four-wire copper loops capable of providing high-bit rate digital subscriber line services, including T1 services.

(ii) Cap on unbundled DS1 loop circuits. A requesting telecommunications carrier may obtain a maximum of ten unbundled DS1 loops to any single building in which DS1 loops are available as unbundled loops.

(5) DS3 loops. (i) Subject to the cap described in paragraph (a)(5)(ii) of this section, an incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to a DS3 loop on an unbundled basis to any building not served by a wire center with at least 38,000 business lines and at least four fiber-based collocators. Once a wire center exceeds both of these thresholds, no future DS3 loop unbundling will be required in that wire center. A

DS3 loop is a digital local loop having a total digital signal speed of 44.736 megabytes per second.

(ii) Cap on unbundled DS3 loop circuits. A requesting telecommunications carrier may obtain a maximum of a single unbundled DS3 loop to any single building in which DS3 loops are available as unbundled loops.

(6) Dark fiber loops. An incumbent LEC is not required to provide requesting telecommunications carriers with access to a dark fiber loop on an unbundled basis. Dark fiber is fiber within an existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications services.

(7) Routine network modifications. (i) An incumbent LEC shall make all routine network modifications to unbundled loop facilities used by requesting telecommunications carriers where the requested loop facility has already been constructed. An incumbent LEC shall perform these routine network modifications to unbundled loop facilities in a nondiscriminatory fashion, without regard to whether the loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

(ii) A routine network modification is an activity that the incumbent LEC regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that the incumbent LEC ordinarily attaches to a DS1 loop to activate such loop for its own customer. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the construction of a new loop, or the installation of new aerial or buried cable for a requesting telecommunications carrier.

(8) Engineering policies, practices, and procedures. An incumbent LEC shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades access to a local loop or subloop, including the time division multiplexing-based features, functions, and capabilities of a hybrid loop, for which a requesting telecommunications carrier may obtain or has obtained access pursuant to paragraph (a) of this section.

* * * * *

(d) Dedicated transport. An incumbent LEC shall provide a requesting telecommunications carrier with nondiscriminatory access to dedicated transport on an unbundled basis, in accordance with section 251(c)(3) of the Act and this part, as set forth in paragraphs (d) through (d)(4) of this section. A “route” is a transmission path between one of an incumbent LEC's wire centers or switches and another of the incumbent LEC's wire centers or switches. A route between two points (e.g., wire center or switch “A” and wire center or switch “Z”) may pass through one or more intermediate wire centers or switches (e.g., wire center or switch “X”). Transmission paths between identical end points (e.g., wire center or switch “A” and wire center or switch “Z”) are the same “route,” irrespective of whether they pass through the same intermediate wire centers or switches, if any.

(1) Definition. For purposes of this section, dedicated transport includes incumbent LEC transmission facilities between wire centers or switches owned by incumbent LECs, or between wire centers or switches owned by incumbent LECs and switches owned by requesting telecommunications carriers, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer or carrier.

(2) Availability.

(i) Entrance facilities. An incumbent LEC is not obligated to provide a requesting carrier with unbundled access to dedicated transport that does not connect a pair of incumbent LEC wire centers.

(ii) Dedicated DS1 transport. Dedicated DS1 transport shall be made available to requesting carriers on an unbundled basis as set forth in paragraphs (d)(2)(ii)(A) and (B) of this section.

Dedicated DS1 transport consists of incumbent LEC interoffice transmission facilities that have a total digital signal speed of 1.544 megabytes per second and are dedicated to a particular customer or carrier.

(A) General availability of DS1 transport. Incumbent LECs shall unbundle DS1 transport between any pair of incumbent LEC wire centers except where, through application of tier classifications described in paragraph (d)(3) of this section, both wire centers defining the route are Tier 1 wire centers. As such, an incumbent LEC must unbundle DS1 transport if a wire center at either end of a requested route is not a Tier 1 wire center, or if neither is a Tier 1 wire center.

(B) Cap on unbundled DS1 transport circuits. A requesting telecommunications carrier may obtain a maximum of ten unbundled DS1 dedicated transport circuits on each route where DS1 dedicated transport is available on an unbundled basis.

(iii) Dedicated DS3 transport. Dedicated DS3 transport shall be made available to requesting carriers on an unbundled basis as set forth in paragraphs (d)(2)(iii)(A) and (B) of this section. Dedicated DS3 transport consists of incumbent LEC interoffice transmission facilities that have a total digital signal speed of 44.736 megabytes per second and are dedicated to a particular customer or carrier.

(A) General availability of DS3 transport. Incumbent LECs shall unbundle DS3 transport between any pair of incumbent LEC wire centers except where, through application of tier classifications described in paragraph (d)(3) of this section, both wire centers defining the route are either Tier 1 or Tier 2 wire centers. As such, an incumbent LEC must unbundle DS3 transport if a wire center on either end of a requested route is a Tier 3 wire center.

(B) Cap on unbundled DS3 transport circuits. A requesting telecommunications carrier may obtain a maximum of 12 unbundled DS3 dedicated transport circuits on each route where DS3 dedicated transport is available on an unbundled basis.

(iv) Dark fiber transport. Dark fiber transport consists of unactivated optical interoffice transmission facilities. Incumbent LECs shall unbundle dark fiber transport between any pair of incumbent LEC wire centers except where, through application of tier classifications described in paragraph (d)(3) of this section, both wire centers defining the route are either Tier 1 or Tier 2 wire centers. An incumbent LEC must unbundle dark fiber transport if a wire center on either end of a requested route is a Tier 3 wire center.

(3) Wire center tier structure. For purposes of this section, incumbent LEC wire centers shall be classified into three tiers, defined as follows:

(i) Tier 1 wire centers are those incumbent LEC wire centers that contain at least four fiber-based collocators, at least 38,000 business lines, or both. Tier 1 wire centers also are those incumbent LEC tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by competitive LECs. Once a wire center is determined to be a Tier 1 wire center, that wire center is not subject to later reclassification as a Tier 2 or Tier 3 wire center.

(ii) Tier 2 wire centers are those incumbent LEC wire centers that are not Tier 1 wire centers, but contain at least 3 fiber-based collocators, at least 24,000 business lines, or both. Once a wire center is determined to be a Tier 2 wire center, that wire center is not subject to later reclassification as a Tier 3 wire center.

(iii) Tier 3 wire centers are those incumbent LEC wire centers that do not meet the criteria for Tier 1 or Tier 2 wire centers.

(4) Routine network modifications. (i) An incumbent LEC shall make all routine network modifications to unbundled dedicated transport facilities used by requesting telecommunications carriers where the requested dedicated transport facilities have already been constructed. An incumbent LEC shall perform all routine network modifications to unbundled dedicated transport facilities in a nondiscriminatory fashion, without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.

(ii) A routine network modification is an activity that the incumbent LEC regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer. They also include activities needed to enable a requesting telecommunications carrier to light a dark fiber transport facility. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the installation of new aerial or buried cable for a requesting telecommunications carrier.

* * * * *

PART 69 – ACCESS CHARGES

5. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

§ 69.2 [Amended]

6. Remove and reserve § 69.2(y).

7. Amend § 69.415 by revising paragraph (c)(4) to read as follows:

§ 69.415 Reallocation of certain transport expenses.

* * * * *

(c) * * *

(4) The common line revenue requirement shall include Interstate Common Line Support as provided in §54.901 of this chapter.

§ 69.502 [Amended]

8. Amend § 69.502 by removing paragraph (c) and redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively.

9.

10.

11. [FR Doc. 2013-00838 Filed 01/25/2013 at 8:45 am; Publication Date: 01/28/2013]